

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)

MDL No. 2419
Dkt. No 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:)

Suits Naming Specialty Surgery Center,)
Crossville, PLLC)

MOTION FOR PERMISSION TO FILE

REPLY

**IN SUPPORT OF SSC DEFENDANTS'
MOTION FOR SUGGESTION OF REMAND OF SSC CASES TO TENNESSEE
AND TO ESTABLISH VENUE IN TENNESSEE VIA §157(B)(5) OR §1404(A)**

Defendants Specialty Surgery Center, Crossville, PLLC ("SSC"), Kenneth R. Lister, MD ("Dr. Lister"), and Kenneth Lister, MD, PC ("Dr. Lister's Practice") (collectively, the "SSC Defendants") move for permission to file the reply attached as an exhibit to this motion, offered in reply to the Response of the PSC to the SSC Defendants' original *Motion for Suggestion of Remand of SSC Cases to Tennessee and to Establish Venue in Tennessee via §157(b)(5) or §1404(a)*. As grounds for this request, the SSC Defendants state:

1. At Dkt. 2939¹, the SSC Defendants moved for remand of the SSC actions to their home Tennessee district after conclusion of common discovery and setting of venue in Tennessee. The PSC responded at Dkt. 2969.

¹ The Memorandum of Law is at Dkt. 2940.

2. The PSC's response primarily argued that this issue has been resolved by prior order of the Court. The SSC Defendants disagree, and wish to address the argument in the proposed reply.

3. This issue – where the SSC cases will be tried – is a very important issue.

4. The Court, understandably given the number of motions and hearings requested, has been taking limited (if any) argument on many motions. Thus, it is critical that all the issues be briefed sufficiently to allow for a decision expected to be made largely on the briefs.

5. No party will be prejudiced by the filing of a reply, which will allow this issue to be briefed in the classic *motion-response-reply* format followed on most of the motions briefed in this litigation.² The reply, attached as an exhibit to this motion, does not repeat the arguments raised in the original motion, but is instead a concise reply to close the loop on the issue for the Court.

² Often, replies have been filed without leave of the Court.

Respectfully submitted,

/s/ Kent E. Krause

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*Admitted pursuant to MDL Order No. 1

**Admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants identified on the Notice of Electronic Filing and copies will be served via electronic mail or regular U.S. mail to those participants identified as unregistered this the 18th day of July, 2016.

/s/ Chris J. Tardio

CHRIS J. TARDIO